

Message Text

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ACTION EB-08

INFO OCT-01 EUR-12 ISO-00 CAB-02 CIAE-00 COME-00 DODE-00
DOTE-00 INR-07 NSAE-00 CIEP-01 FAA-00 SSO-00 INRE-00
L-03 SS-15 NSC-05 NSCE-00 /054 W
-----111741Z 010826 /43

O 111729Z FEB 77
FM AMEMBASSY BONN
TO SECSTATE WASHDC IMMEDIATE 5575
INFO AMCONSUL FRANKFURT IMMEDIATE
AMEMBASSY BRUSSELS IMMEDIATE
USMISSION USBERLIN IMMEDIATE

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FRANKFURT AND BRUSSELS FOR FAA

E.O. 11652: N/A
TAGS: EAIR, GW, WB, US
SUBJECT: CIVAIR: FAA CALIBRATION OF NAVAIDS FOR
BERLIN CORRIDORS

1. CAA SUMMONED FEBRUARY 11 ON URGENT BASIS BY FRG
DIRECTOR GENERAL OF CIVIL AVIATION DR. REHM ON MATTER
HE CONSIDERED VERY IMPORTANT FOR BERLIN AVIATION.
REHM EXPLAINED THAT UNDER FOUR POWER AND RELATED
AGREEMENTS FRG MAINTAINS NAVIGATIONAL AIDS LOCATED ON
ITS TERRITORY FOR USE OF AIRCRAFT IN BERLIN CORRIDOR.
AERIAL CALIBRATION OF THESE AIDS HAS BEEN CARRIED OUT
BY THE FAA ON A REFUNDABLE BASIS UNDER THE TERMS OF
A SERIES OF ONE YEAR AGREEMENTS. THE FAA HAS SENT A
SIGNED AGREEMENT FOR 1977 WHICH THE FRG WILL SIGN WITH
MINOR EDITORIAL CHANGES. THE AGREEMENT CONTAINS WHAT
HAS BECOME A STANDARD PARAGRAPH PROVIDING THAT FAA WILL
HAVE NO LIABILITY OTHER THAN THAT ARISING FROM
GROSS NEGLIGENCE OF ITS PERSONNEL AS DETERMINED BY A
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COMPETENT GERMAN COURT.

2. REHM SAID HE LEARNED YESTERDAY FROM THE FRG EMBASSY
IN WASHINGTON THAT THE FAA IS INSISTING ON AN EXCHANGE
OF LETTERS BETWEEN FAA AND THE FEDERAL FLIGHT SAFETY
ADMINISTRATION (BUNDESANSTALT FUER FLUG SICHERUNG -
BFS) THAT WOULD STATE THAT THE FRG DOES NOT PROPOSE

TO HOLD THE UNITED STATES LIABLE FOR DAMAGES RESULTING
FROM GROSS NEGLIGENCE BY PERSONNEL OF THE FAA.

3. IN REHM'S VIEW THIS IS LEGALLY UNTENABLE. REHM
ARGUED THAT "REGULATION" OF BERLIN AVIATION IS THE
RESPONSIBILITY OF THE ALLIED POWERS WHILE THE FRG IS
REQUIRED TO "FACILITATE" SUCH OPERATIONS. SINCE THE
FRG IS NOT PERMITTED TO SEND AIRCRAFT INTO THE
CORRIDORS, AERIAL CALIBRATION OF THE NAVAIDS CANNOT
BE PART OF ITS FACILITATIVE RESPONSIBILITY. THE FAA
THUS IS ACTING AS AN AGENCY OF THE USG PERFORMING AN
ALLIED FUNCTION AND NOT AS AN AGENT RENDERING A
CONTRACTUAL SERVICE TO THE FRG.

4. REHM UNDERSCORED THE URGENCY OF A SOLUTION TO
THIS PROBLEM. IF THE NAVAIDS ARE NOT CALIBRATED ON
SCHEDULE (THE FOUR SITES ARE SCHEDULED FOR CALIBRATION
ON FEBRUARY 20, FEBRUARY 28, MARCH 8 AND APRIL 25),
THEY WILL IN A MATTER OF WEEKS BECOME UNRELIABLE, AND
THE CORRIDORS COULD BECOME UNUSABLE.

ACTION REQUESTED: EMBASSY URGES THAT WAY BE FOUND
EITHER TO SOLVE DIFFERENCE BETWEEN FAA AND THE MINISTRY
OF TRANSPORTATION IN TIME FOR CALIBRATION SCHEDULE TO
BE MET OR, FAILING THIS, THAT SPECIAL ONE TIME
ARRANGEMENT BE MADE FOR THIS SERIES OF CALIBRATIONS
WHILE TWO SIDES CONTINUE TO SEEK AGREEMENT.
STOESSEL

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Message Attributes

Automatic Decaptioning: X
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Sent Date: 11-Feb-1977 12:00:00 am
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Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
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Disposition Date: 22 May 2009
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Disposition Reason:
Disposition Remarks:
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